

August 12, 1985

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

James D. Dias, Petitioner v. City of San Diego, Respondent,
Petition for Writ of Mandate, Superior Court Case No. 542997

This lawsuit was brought against The City of San Diego by former City of San Diego Police Officer James Dias on June 7, 1985, as a result of his termination from employment with the San Diego Police Department. The case was brought as a Petition for Writ of Mandate challenging The City's post-termination administrative appeal procedures. The incident which resulted in the termination occurred on January 24, 1984, when James Dias, a probationary Police Officer, attended a party during the course of which he consumed alcoholic beverages. When he left the party, he was involved in an automobile accident in his private vehicle and fled the accident scene.

On March 2, 1984, after the San Diego Police Department had conducted an investigation into the incident, James Dias was served with an "advance notice of adverse action" stating grounds for his proposed termination. A pretermination or "Skelly" hearing was held on March 9, 1984, before Captain Tyler. At the "Skelly" hearing, James Dias asked that certain persons be contacted and on March 15, 1984, James Dias provided a list of witnesses and character references to the Department. A second investigation was conducted by the Department.

Following the Skelly hearing and the second investigation, the Department terminated the employment of James Dias and informed him of the decision by letter on March 28, 1984.

Following his termination, Dias appealed the decision to Deputy Chief Davis. The procedures which were followed by Deputy Chief Davis during this appeal hearing were those set forth in the Memorandum of Understanding and in the San Diego Police Department Discipline Manual regarding termination of employees in less than permanent status.

The matter was heard before Judge Jack Leavitt on August 6, 1985. After considering the arguments and supporting documents, Judge Leavitt denied the Petition for Writ of Mandate on August 6, 1985; thereby upholding the City's post-termination

procedures for probationary police officers.

On behalf of Respondent The City of San Diego, Deputy City Attorney Cristie C. McGuire prepared and submitted the written opposition to the petition and Deputy City Attorney Cheryl Mannie presented the oral argument.

Respectfully submitted,

JOHN W. WITT

City Attorney

CCM:hk:Lit

RC-85-20